



W.A.(MD) No.736 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.A.(MD) No.736 of 2023

Periyadurai

... Appellant

-VS-

1.The District Registrar (Admin)
Registration Office
Tirunelveli District
Tirunelveli

2.The Joint Sub Registrar No.II
Thirunagar, Tirunelveli Town
Tirunelveli

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 09.02.2023, passed in W.P.(MD) No.772 of 2023, on the file of this Court.

For Appellant : Mr.H.Arumugam

For Respondents : Mr.M.Prakash
Additional Government Pleader



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J U D G M E N T

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Mr.M.Prakash, learned Additional Government Pleader, takes notice for the respondents.

2. With the consent of both sides, this writ appeal is taken up for final hearing at the admission stage itself.

3. In a similar matter between the same parties in W.A.(MD) No. 308 of 2023, on 20.03.2023, we have passed the following order:

“4. Hence, the writ appeal is allowed and the order of the Writ Court dated 02.02.2023, passed in W.P.(MD) No.749 of 2023, is set aside. The writ petition in W.P.(MD) No.749 of 2023 will stand allowed. There will be a direction to the Registering Authority to register the document on production of encumbrance certificate alone. The Registering Authority shall not insist upon registration of the Will or shall not embark upon any other enquiry. We are emboldened to hold so, because there are enough and more provisions in the Transfer of Property Act, 1882 and the General Laws, which protect the interest of the persons, who are not parties to the document. Admittedly, the siblings of the appellant are not parties to the partition



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deed and the same is not binding to them, if they choose to challenge it in the manner known to law. We, therefore, will not allow the Sub-Registrar to embark upon the exercise of enquiry and allow the Sub Registrar to decide the genuineness of the Will, which would be against the very provisions of the Transfer of Property Act, 1882. The appellant shall re-present the document along with encumbrance certificate and the Joint Sub Registrar No.II, Thirunagar, Tirunelveli Town, shall register the document without insisting on proof of the Will or registration of the Will or no objection from the siblings, within a period of fifteen days from the date of presentation of the document. No costs.”

4. This writ appeal is also disposed of on the same lines. No costs.

[R.S.M., J.]

[L.V.G., J.]

06.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

krk



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To:

- 1.The District Registrar (Admin),
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Tirunelveli District,
Tirunelveli.

- 2.The Joint Sub Registrar No.II,
Thirunagar, Tirunelveli Town,
Tirunelveli.



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